

HOUSE BILL 1084

D3, J1

EMERGENCY BILL

1lr1830

By: **Delegate Rose**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Catastrophic Health Emergencies – Immunity From Civil Liability**

3 FOR the purpose of providing that a certain person is not civilly liable for certain acts or
4 omissions relating to the person's failure to comply with guidance during a
5 catastrophic health emergency except under certain circumstances; authorizing a
6 certain party to appeal an interlocutory order entered by a circuit court in a civil case
7 denying immunity asserted under this Act; defining certain terms; providing for the
8 application of this Act; making this Act an emergency measure; and generally
9 relating to civil immunity and catastrophic health emergencies.

10 BY adding to

11 Article – Courts and Judicial Proceedings
12 Section 5–427
13 Annotated Code of Maryland
14 (2020 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article – Courts and Judicial Proceedings
17 Section 12–303
18 Annotated Code of Maryland
19 (2020 Replacement Volume)

20 BY repealing and reenacting, without amendments,

21 Article – Public Safety
22 Section 14–3A–01
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2020 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings**5–427.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CATASTROPHIC HEALTH EMERGENCY” HAS THE MEANING STATED IN § 14–3A–01 OF THE PUBLIC SAFETY ARTICLE.

(3) “GUIDANCE” MEANS ANY STATE OR COUNTY ORDER, DECLARATION, RULE, OR REGULATION ISSUED IN RESPONSE TO A CATASTROPHIC HEALTH EMERGENCY.

(4) (I) “PERSON” MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENTAL AGENCY, PUBLIC CORPORATION, OR ANY OTHER LEGAL ENTITY.

(II) “PERSON” INCLUDES:

1. AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

2. A PUBLIC OR NONPUBLIC SCHOOL; AND

3. AN INSTITUTION OF HIGHER EDUCATION.

(B) A PERSON IS NOT CIVILLY LIABLE FOR AN ACT OR OMISSION RELATED TO THE PERSON’S FAILURE TO COMPLY WITH GUIDANCE DURING A CATASTROPHIC HEALTH EMERGENCY UNLESS IT IS SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE ACT OR OMISSION WAS COMMITTED WITH MALICE OR GROSS NEGLIGENCE.

12–303.

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

1 (2) An order granting or denying a motion to quash a writ of attachment;
2 and

3 (3) An order:

4 (i) Granting or dissolving an injunction, but if the appeal is from an
5 order granting an injunction, only if the appellant has first filed his answer in the cause;

6 (ii) Refusing to dissolve an injunction, but only if the appellant has
7 first filed his answer in the cause;

8 (iii) Refusing to grant an injunction; and the right of appeal is not
9 prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on
10 behalf of any opposing party, nor by the taking of depositions in reference to the allegations
11 of the bill of complaint to be read on the hearing of the application for an injunction;

12 (iv) Appointing a receiver but only if the appellant has first filed his
13 answer in the cause;

14 (v) For the sale, conveyance, or delivery of real or personal property
15 or the payment of money, or the refusal to rescind or discharge such an order, unless the
16 delivery or payment is directed to be made to a receiver appointed by the court;

17 (vi) Determining a question of right between the parties and
18 directing an account to be stated on the principle of such determination;

19 (vii) Requiring bond from a person to whom the distribution or
20 delivery of property is directed, or withholding distribution or delivery and ordering the
21 retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver,
22 or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of
23 the Maryland Rules;

24 (viii) Deciding any question in an insolvency proceeding brought
25 under Title 15, Subtitle 1 of the Commercial Law Article;

26 (ix) Granting a petition to stay arbitration pursuant to § 3-208 of this
27 article;

28 (x) Depriving a parent, grandparent, or natural guardian of the care
29 and custody of his child, or changing the terms of such an order; [and]

30 (xi) Denying immunity asserted under § 5-525 or § 5-526 of this
31 article; AND

32 **(XII) DENYING IMMUNITY ASSERTED UNDER § 5-427 OF THIS**
33 **ARTICLE.**

1 **Article – Public Safety**

2 14–3A–01.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) “Catastrophic health emergency” means a situation in which extensive loss of
5 life or serious disability is threatened imminently because of exposure to a deadly agent.

6 (c) “Deadly agent” means:

7 (1) anthrax, ebola, plague, smallpox, tularemia, or other bacterial, fungal,
8 rickettsial, or viral agent, biological toxin, or other biological agent capable of causing
9 extensive loss of life or serious disability;10 (2) mustard gas, nerve gas, or other chemical agent capable of causing
11 extensive loss of life or serious disability; or12 (3) radiation at levels capable of causing extensive loss of life or serious
13 disability.14 (d) “Exposure to a deadly agent” means a threat to human health caused by the
15 release, distribution, or transmission of a deadly agent in:

16 (1) this State; or

17 (2) another jurisdiction because of movement into the State of the deadly
18 agent or of individuals exposed to the deadly agent.

19 (e) “Health care provider” means:

20 (1) a health care facility as defined in § 19–114(d)(1) of the Health –
21 General Article;22 (2) a health care practitioner as defined in § 19–114(e) of the Health –
23 General Article; and24 (3) an individual licensed or certified as an emergency medical services
25 provider under § 13–516 of the Education Article.

26 (f) “Secretary” means the Secretary of Health.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
28 apply retroactively and shall be applied to and interpreted to affect the liability of a person
29 for acts or omissions related to the person’s failure to comply with guidance during a
30 catastrophic health emergency occurring on or after March 5, 2020.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
2 measure, is necessary for the immediate preservation of the public health or safety, has
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to
4 each of the two Houses of the General Assembly, and shall take effect from the date it is
5 enacted.